

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34681

STATE OF IDAHO,)	2008 Unpublished Opinion No. 605
)	
Plaintiff-Respondent,)	Filed: August 14, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
WILLIAM L. MURACO,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Gem County. Hon. Renae J. Hoff, District Judge.

Order denying I.C.R. 35 motion for correction of an illegal sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Eric D. Fredericksen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

PER CURIAM

William L. Muraco was convicted of lewd conduct with a child under sixteen, I.C. § 18-1508, and was sentenced to a unified term of life imprisonment with ten years determinate. Muraco filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Muraco filed a second Rule 35 motion for reduction of sentence, which the district court denied due to lack of jurisdiction. Muraco filed a third Rule 35 motion and a supplement to his Rule 35 motion to correct an illegal sentence, which the district court denied. Muraco appeals, contending that the district court abused its discretion by denying his Rule 35 motion. Muraco claims that an indeterminate life sentence is subject to a maximum of thirty years imprisonment and, therefore, his sentence exceeds the maximum allowed by law. A similar argument was rejected by the Idaho Supreme Court in *State v. Wood*, 125 Idaho 911, 912-13, 876 P.2d 1352, 1353-54 (1993), and the relevant portion of the Court's settling of this issue is as follows:

Wood argues his sentence is illegal because his maximum term of imprisonment, twenty-two years, is in excess of one-half of a life sentence. In support of his argument, Wood cites *King v. State*, 93 Idaho 87, 93, 456 P.2d 254, 260 (1969), in which the Court stated “sentences of thirty years or more must be treated for purposes of parole eligibility as effective life sentences.” Wood argues that since thirty-year sentences are the equivalent of life sentences and attempted first-degree murder carries a maximum term of one-half of a life sentence, the maximum term of imprisonment for attempted first-degree murder is fifteen years.

Wood incorrectly interprets *King*. *King* does not hold that a life sentence is the equivalent of a thirty-year sentence. Instead, *King* held that *for purposes of parole eligibility* under the former I.C. § 20-223, a sentence of *thirty years or more* must be treated as a life sentence thus making a defendant serving a sentence of thirty years or more eligible for parole after ten years. Moreover, the quote from *King* identified by wood no longer has precedential value in light of the adoption of the Unified Sentencing Act in 1986, codified at I.C. § 19-2513, 1986 Sess. Laws, ch 232, § 3, p. 638.

(Emphasis in original.) Therefore, under Idaho law, a life sentence is not and never has been a thirty-year sentence, nor is there any “custom and usage” making it so. Accordingly, the district court did not err in denying Muraco’s motion for correction of an illegal sentence.

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by denying Muraco’s Rule 35 motion for correction of an illegal sentence. Accordingly, the order of the district court denying Muraco’s Rule 35 motion is affirmed.